

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

October 5, 1999

DIVISION ONE

B128115 People
 v.
 Johnson

Filed order denying petition for rehearing.

DIVISION TWO

106271-99

The HONORABLE ROBERT M. MALLANO, Judge of the Los Angeles Superior Court, Los Angeles County, is hereby assigned to assist the Court of Appeal, Second Appellate District, Division Two, as a Justice thereof, on the following dates:

October 1, 1999 To December 31, 1999

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal justice, all petitions for rehearing arising out of such causes and matters.

This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

Dated: October 1, 1999

Ronald M. George
Chief Justice of California and
Chairperson of the Judicial Council

DIVISION TWO (Continued)

[illegible]

The Judgment is modified to add a restitution fine in the sum of \$3,000 pursuant to section 1202.45. As so modified, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect the imposition of the \$3,000 fine imposed pursuant to section 1202.45, to be suspended unless appellant's parole is revoked. The abstract of judgment shall also be modified to reflect that the personal use enhancement was imposed pursuant to section 12022.5, subdivision (a), rather than section 12022.5, subdivision (b). The trial court shall send the corrected abstract of judgment to the Department of Corrections.

Nott, J.

We concur: Boren, P.J.
 Mallano, J. (Assigned)

B117279 Wong (Not for Publication)
v.
United National Bank et al.

The judgment appealed from is reversed. The matter is remanded for retrial. Costs to Appellant.

Nott, J.

We concur: Boren, P.J.
Zebrowski, J.

B120721 People (Not for Publication)
v.
Ocampo

The Court:

The judgment is affirmed.

Boren, P.J., Nott, J. Mallano, J. (Assigned)

October 5, 1999-Continued

DIVISION TWO (Continued)

B129165 People (Certified for Publication)
v.
Castaneda

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
Zebrowski, J.

B128111 Helene Curtis, Inc. (Not for Publication)
v.
Assessment Appeals Board

The judgment is affirmed.

Nott, J.

We concur: Boren, P.J.
Zebrowski, J.

B126593 People (Not for Publication)
v.
Scott

The judgment is affirmed.

Nott, Acting P.J.

We concur: Zebrowski, J.
Mallano, J. (Assigned)

DIVISION THREE

B122526 Charles Stevens, etc. (Certified for Publication)
B122539 v.
API Automobile Insurance Services et al.

The alternative writ, issued on July 6, 1998, is hereby discharged. The petition for writ of mandate in B122526 is granted. The judgment in B122539 is reversed. Petitioner and appellant is awarded costs on appeal.

Aldrich, J.

We concur: Croskey, Acting P.J.
Kitching, J.

DIVISION FOUR

B121222 Shinee (Not for Publication)
v.
Lichtman, M.D.

The order granting a new trial on damages is affirmed. Costs on appeal are awarded to respondent.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Epstein, J.

B125919 People (Not for Publication)
v.
DeMetillo

The judgment of conviction is reversed and the matter is remanded for a new trial.

Hastings, J.

We concur: Epstein, Acting P.J.
Curry, J.

DIVISION FOUR (Continued)

[illegible]

Appellant's sentence is reversed and the matter is remanded for resentencing following a jury trial on the issue of the prior conviction allegations. The judgment is affirmed in all other respects.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

B122692 People (Certified for Publication)
v.
Jones

The matter is remanded to the trial court for retrial of the prior serious felony enhancement and strike allegation, and for resentencing in the event the prior serious felony allegation is not proved.

The judgment of conviction for kidnapping during the commission of carjacking is modified to attempted carjacking and the matter is remanded to the trial court for resentencing. The sentence imposed for attempted carjacking is to be stayed pursuant to section 654, as was the conviction for kidnapping during the commission of carjacking.

The judgment is modified to provide that appellant is assessed a fine in the amount of \$1,000, pursuant to section 1202.45, to be suspended unless appellant's parole is revoked. The abstract of judgment is to be corrected to reflect the section 1202.45 fine, and also is to be corrected to reflect the section 1202.4, subdivision (b) fine in the amount of \$1,000 which was properly imposed by the trial court.

In all other respects, the judgment is affirmed. The trial court is ordered upon issuance of the remittitur to send a corrected abstract of judgment to the Department of Corrections.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

October 5, 1999-Continued

DIVISION FIVE

Court convened at 8:00 A.M.

Present: Turner, P.J., Godoy Perez, J., Weisman, J. (Assigned), and J. Belcher, Deputy Clerk.

Each of the following:

B126616 People v. Herbert
B122487 People v. Gamboa
B122589 People v. Vigil
B130032 Mylan Laboratories v. Soon-Shiong et al.
B133699 D.C.F.S. v Daphne D.

Argument waived, cause submitted.

B133619 Roosbeh Khezri
 v.
 Superior Court
 (Classified Lingerie Inc., et al., r.p.i.)

Merits:

Argued by Vicki Marolt Buchanan for petitioner and by Benjamin Kiss for real party in interest. Cause submitted.

B127325 Kayretha H. Willis
 v.
 V.J. McAlpin

Merits:

Argued by Kayretha H. Willis for appellant in propria persona. No appearance for respondent. Cause submitted.

DIVISION FIVE (Continued)

B129300 Washington Mutual Bank, FA et al.
v.
Superior Court
(Paul E. Brown et al., r.p.i.)

Merits:

Argued by Julia B. Strickland for petitioners and Clifford A. Cantor for real parties in interest. Cause submitted.

B133652 Gilbert Garcetti
v.
Los Angeles Superior Court
(Ignacio Zaragoza, r.p.i.)

Argued by Brent Ferrerira, deputy district attorney, for petitioner and Jack Weedon, for real party in interest. Cause submitted.

B130556 Mylan Laboratories, Inc.
v.
Terrence Soon-Shiong
(Patrick Soon-Shiong et al., r.p.i.)

Merits:

Argued by Jeffrey Parker for appellants and by Robert Meyer for respondent Mylan Laboratories, Inc. No appearance for real party in interest Terrence Soon-Shiong. Cause submitted.

Court recessed at 9:15 a.m.

October 5, 1999-Continued

DIVISION FIVE (Continued)

The Court reconvened at 10:00 a.m.

Present: Turner, P.J., Grignon, J., Armstrong, J., and J. Belcher, Deputy Clerk.

B126427 B & D Contractors
 v.
 State of California

Merits:

Argued by Robert Zwierlien for appellant and by Dwayne F. Shields for respondent. Cause submitted.

The court recessed at 10:20 a.m.

The Court reconvened at 11:00 a.m.

Present: Turner, P.J., Armstrong, J., Godoy Perez, J., and J. Belcher, Deputy Clerk.

Each of the following:

B126341 People v. Larkin
B129910 People v. McHenry
B120912 People v. Brown
B127275 People v. Mendenhall
B130760 D.C.F.S. v. George C.
B133064 D.C.F.S. v. Theresa C.
B124556 D.C.F.S. v. Marlene L.

Argument waived, cause submitted.

B133529 In re Courtney W.
 v.
 Shonnie H.
 D.C.F.S.

Merits:

Argued by Anne E. Fragasso for petitioner and by Jill Regal, deputy county counsel, for D.C.F.S. Cause submitted.

DIVISION FIVE (Continued)

B131471 In re Diana R., et al.
 v.
 D.C.F.S.
 (Maria R., r.p.i.)

Merits:

Argued by John L. Dodd for appellant and by Jill Regal, deputy county counsel, for respondent. Cause submitted.

B126687 The People
 v.
 Walter Larkin

Merits:

Argued by Leonard J. Klaif for appellant and by Andrew Niedrick, deputy county counsel, for respondent. Cause submitted.

B127885 The People
 v.
 Reginald Williams

Merits:

Argued by Edward J. Haggerty for appellant and by John Yang, deputy attorney general, for respondent. Cause submitted.

Court recessed at 11:45 a.m.

Court reconvened at 1:00 p.m.

Present: Turner, P.J., Armstrong, J., Godoy Perez, J., J. Belcher, Deputy Clerk, and. Jacqueline Abboud, Certified Shorthand Reporter.

B123504 Fellowship of Friends
 v.
 Los Angeles Times

Merits:

Argued by Abraham N. Goldman for appellant and by Rex Heinke for respondent. Cause submitted.

DIVISION FIVE (Continued)

Court recessed at 1:25 p.m.

Court reconvened at 1:30 p.m.

Present: Turner, P.J., Armstrong, J., Godoy Perez, J., and J. Belcher, Deputy Clerk.

B122293 Chester Carter
 v.
 City of Los Angeles

Merits:

Argued by Peter M. Glick, deputy county counsel, for respondent. No appearance for appellant. Matter continued to December calendar.

B126368 Blake Larkin
 v.
 Williams Woolley Cogswell Nakazawa

Merits:

Argued by Marcus McDaniel for appellant and by Donald P. Johnson for respondent. Cause submitted.

B126858 Beverlyn Washington
 v.
 Los Angeles County Metropolitan Transit Authority

Merits:

Argued by Jared Gross for appellant and by Carolyn Oill for respondent. Cause submitted.

B123208 Filippo Industries
 v.
 Phoenix Assurance Company of New York

Merits:

Argued by Samuel Krane for appellant and by Joseph P. Mascovich and Ronald D. Kent for respondents. Cause submitted.

DIVISION FIVE (Continued)

B125587 Gerald Dalrymple et al.
 v.
 Diagnostic Imaging Services, Inc.

Merits:
Argued by Robin Bronzaft Howald for appellant and by Deborah Klar for respondent. Cause submitted.

B119354 Christopher Wojciechowski
 v.
 Latham & Watkins

Merits:
Argued by Christopher Wojciechowski for appellant in propria persona and by Vincent Harold Herron for respondent. Cause submitted.

Court recessed at 3:10 p.m.

DIVISION SEVEN

B125132 Harper
 v.
 Thorne Apple Valley

Filed order denying petition for rehearing.